

To: 'Cathy Laughner'[cathyl@bkbh.com]; 'Mark Stermitz'[mstermitz@crowleyfleck.com]; 'Pinkston, Daniel (ENRD)'[Daniel.Pinkston@usdoj.gov]; Perkins, Erin[Perkins.Erin@epa.gov]; Zomer, Jessica[Zomer.Jessica@epa.gov]; Jeff J. Oven[joven@crowleyfleck.com]; Chad Adams[Chad@bkbh.com]; 'kmoser2@mt.gov'[kmoser2@mt.gov]; 'Bond, Sarah (SBond@mt.gov)'[SBond@mt.gov]; 'mwarhank@jmgm.com'[mwarhank@jmgm.com]; 'fredric.andes@btlaw.com'[fredric.andes@btlaw.com]; 'pdruicker@btlaw.com'[pdruicker@btlaw.com]; 'jfortney@btlaw.com'[jfortney@btlaw.com]
Cc: 'Albert F. Ettinger (ettinger.albert@gmail.com)'[ettinger.albert@gmail.com]; Jennifer Chavez[jchavez@earthjustice.org]; Stephanie Tsosie[stsosie@earthjustice.org]; Katherine O'Brien[kobrien@earthjustice.org]
From: Janette Brimmer
Sent: Wed 10/19/2016 7:34:06 PM
Subject: RE: follow up MT WQS briefing and pretrial scheduling proposals RESEND
3038 DRAFT Joint Case Management Document 10-18-16.docx

Attached is the proposed joint filing. This is an amended version of the one that we sent around for discussion two weeks ago. Please pay particular attention to the following (I tried to highlight all of these in yellow on the attached document).

Agreed dates for filing of the record and motions on the record or for amending the complaint due to something unanticipated in the record. These are dates that Federal Defendant and Plaintiff have agreed to and we don't anticipate that the intervenors have a problem with that. However, the proposal sent by Cathy this morning changed those dates. I have left both in this draft—the narrative language, highlighted in yellow and Cathy's proposal in the second chart. We need to either agree on the narrative ones or agree to disagree and I will edit accordingly. Please let me know your position on that.

I have also changed the proposal agreed to by Plaintiff and the Federal Defendant to allow for 1,000 more words in the State's final reply as was discussed on Monday (Kurt I believe you had asked for 1,000 more than we had proposed.) That too is highlighted in yellow.

Finally, I highlighted the date in Cathy's proposal for final replies of intervenors in yellow as I am uncertain if the proposal is to have that date be the same as Federal Defendants' final reply or if it is a different date but still within the same month. Please clarify.

I am out of the office all day tomorrow for an off-site meeting and unable to address this. I propose that the parties look this over and get back to me with changes on Friday for anticipated filing on Friday afternoon, early Monday at the latest (with the pretrial conference scheduled for Monday the 31st that is slightly more than a week but less than 10 days for the judge.) If necessary or helpful, I could do a call any time on Friday between the hours of 10 a.m. and 4 p.m. pacific time.

Thanks.

Janette Brimmer

Attorney

Earthjustice Northwest Office

705 2nd Avenue, Suite 203

Seattle, WA 98104

T: 206.343.7340, ext. 1029

F: 206.343.1526

earthjustice.org



The information contained in this email message may be privileged, confidential and protected from disclosure.

If you are not the intended recipient, any dissemination, distribution or copying is strictly prohibited.

If you think that you have received this email message in error, please notify the sender by reply email and

delete the message and any attachments.

From: Cathy Laughner [mailto:cathyl@bkbh.com]

Sent: Wednesday, October 19, 2016 11:24 AM

To: Janette Brimmer; 'Mark Stermitz'; 'Pinkston, Daniel (ENRD)'; 'Perkins, Erin'; 'Zomer, Jessica (Zomer.Jessica@epa.gov)'; Jeff J. Oven; Chad Adams; 'kmoser2@mt.gov'; 'Bond, Sarah (SBond@mt.gov)'; 'mwarhank@jmgm.com'; 'fredric.andes@btlaw.com'; 'pdrucker@btlaw.com'; 'jfortney@btlaw.com'

Cc: 'Albert F. Ettinger (ettinger.albert@gmail.com)'; Jennifer Chavez; Stephanie Tsosie; Katherine O'Brien

Subject: RE: follow up MT WQS briefing and pretrial scheduling proposals RESEND

The Court requires a joint written report, to include the issues we can agree on. Then separately include in the joint written report each party's contentions where they cannot agree. We should hold the call. Is it the schedule for the Response briefs you have a problem with also? I thought my proposal followed Dan's suggestion, which differed from what you circulated on 10/10.

Thank you.

Catherine A. Laughner, Browning, Kaleczyc, Berry & Hoven, P.C.
Esq.

801 W. Main, Suite 2A, Bozeman, MT 59715

cathyl@bkbh.com

p. (406) 585-0888

www.bkbh.com

f. (406) 587-0165

-

Confidentiality Notice - This e-mail and its attachments (if any) may contain privileged information, confidential information, proprietary information, attorney/client work product, or other information protected from disclosure by law. Any use, dissemination, disclosure or reproduction of this e-mail other than by the intended recipient as authorized by the sender is strictly prohibited. If you have received this e-mail in error, please delete this e-mail and its attachments (if any) and notify the sender via a reply e-mail, or by telephone at (406) 443-6820. It is not the intention of the sender to waive any privileges, confidentiality rights, proprietary rights or other rights relative to the information contained within this e-mail or any of its attachments.

From: Janette Brimmer [<mailto:jbrimmer@earthjustice.org>]
Sent: Wednesday, October 19, 2016 11:36 AM
To: 'Mark Stermitz'; Cathy Laughner; 'Pinkston, Daniel (ENRD)'; 'Perkins, Erin'; 'Zomer, Jessica (Zomer.Jessica@epa.gov)'; Jeff J. Oven; Chad Adams; 'kmoser2@mt.gov'; 'Bond, Sarah (SBond@mt.gov)'; 'mwarhank@jmgm.com'; 'fredric.andes@btlaw.com'; 'pdrucker@btlaw.com'; 'jfortney@btlaw.com'
Cc: 'Albert F. Ettinger (ettinger.albert@gmail.com)'; Jennifer Chavez; Stephanie Tsosie; Katherine O'Brien
Subject: RE: follow up MT WQS briefing and pretrial scheduling proposals RESEND

Well, seems to me that it might be a better use then of everyone's time to cancel the call at noon and simply prepare separate proposals for the court. I will submit the one that EPA and the plaintiffs propose. I assume intervenors will submit the one below. Not sure where the State of Montana wants to land. Kurt let me know if you will be filing a separate proposal or joining one of the others.

And definitely, if I am wrong about the utility of having a call at noon, let me know right away---
I am still happy to do it if anyone thinks progress will be made on coming to agreement,
particularly on the separate briefing by intervenors as that strikes me as the big sticking point.
Thanks.

Janette Brimmer

Attorney

Earthjustice Northwest Office

705 2nd Avenue, Suite 203

Seattle, WA 98104

T: 206.343.7340, ext. 1029

F: 206.343.1526

earthjustice.org



The information contained in this email message may be privileged, confidential and protected from disclosure.

If you are not the intended recipient, any dissemination, distribution or copying is strictly prohibited.

If you think that you have received this email message in error, please notify the sender by reply email and

delete the message and any attachments.

From: Mark Stermitz [<mailto:mstermitz@crowleyfleck.com>]
Sent: Wednesday, October 19, 2016 10:23 AM
To: Cathy Laughner; Janette Brimmer; 'Pinkston, Daniel (ENRD)'; 'Perkins, Erin'; 'Zomer, Jessica (Zomer.Jessica@epa.gov)'; Jeff J. Oven; Chad Adams; 'kmoser2@mt.gov'; 'Bond, Sarah (SBond@mt.gov)'; 'mwarhank@jmgm.com'; 'fredric.andes@btlaw.com'; 'pdrucker@btlaw.com'; 'jfortney@btlaw.com'
Cc: 'Albert F. Ettinger (ettinger.albert@gmail.com)'; Jennifer Chavez; Stephanie Tsosie; Katherine O'Brien
Subject: RE: follow up MT WQS briefing and pretrial scheduling proposals RESEND

Treasure State joins in this approach. Thanks.

Mark

MARK L. STERMITZ

Crowley Fleck PLLP
305 South 4th Street East, Suite 100
Missoula, Montana 59801 (*Licensed in MT, ND, CA, OR*)
Direct line: 406-523-3625

Cell: 406-546-5494

Fax: 406-523-3636

mstermitz@crowleyfleck.com

BILLINGS BISMARCK BOZEMAN BUTTE CASPER CHEYENNE HELENA
KALISPELL MISSOULA SHERIDAN WILLISTON

NOTICE: THIS ELECTRONIC MAIL TRANSMISSION MAY CONSTITUTE AN ATTORNEY-CLIENT COMMUNICATION THAT IS PRIVILEGED AT LAW. IT IS NOT INTENDED FOR TRANSMISSION TO, OR RECEIPT BY, ANY UNAUTHORIZED PERSONS. IF YOU HAVE RECEIVED THIS ELECTRONIC MAIL TRANSMISSION IN ERROR, PLEASE DELETE IT FROM YOUR SYSTEM WITHOUT COPYING IT, AND NOTIFY THE SENDER BY REPLY E-MAIL OR BY CALLING CROWLEY FLECK PLLP AT 406-252-3441, SO THAT OUR ADDRESS RECORD CAN BE CORRECTED.

This email has been scanned for email related threats and delivered safely by Mimecast. For more information please visit <http://www.mimecast.com>

From: Cathy Laughner [<mailto:cathyl@bkbh.com>]

Sent: Wednesday, October 19, 2016 11:18 AM

To: 'Janette Brimmer' <jbrimmer@earthjustice.org>; 'Pinkston, Daniel (ENRD)' <Daniel.Pinkston@usdoj.gov>; 'Perkins, Erin' <Perkins.Erin@epa.gov>; 'Zomer, Jessica (Zomer.Jessica@epa.gov)' <Zomer.Jessica@epa.gov>; Mark Stermitz <mstermitz@crowleyfleck.com>; Jeff J. Oven <joven@crowleyfleck.com>; Chad Adams <Chad@bkbh.com>; 'kmoser2@mt.gov' <kmoser2@mt.gov>; 'Bond, Sarah (SBond@mt.gov)' <SBond@mt.gov>; 'mwarhank@jmgm.com' <mwarhank@jmgm.com>; 'fredric.andes@btlaw.com' <fredric.andes@btlaw.com>; 'pdrucker@btlaw.com' <pdrucker@btlaw.com>; 'jfortney@btlaw.com' <jfortney@btlaw.com>

Cc: 'Albert F. Ettinger (ettinger.albert@gmail.com)' <ettinger.albert@gmail.com>; Jennifer Chavez <jchavez@earthjustice.org>; Stephanie Tsosie <stsosie@earthjustice.org>; Katherine O'Brien <kobrien@earthjustice.org>

Subject: RE: follow up MT WQS briefing and pretrial scheduling proposals RESEND

Yes. L.R. 7.1(d)(2) provides Response=6500 words, Reply=3250 words.

Catherine A. Laughner, Browning, Kaleczyc, Berry & Hoven, P.C.
Esq.

cathyl@bkbh.com

www.bkbh.com

801 W. Main, Suite 2A, Bozeman, MT 59715

p. (406) 585-0888

f. (406) 587-0165

Confidentiality Notice - This e-mail and its attachments (if any) may contain privileged information, confidential information, proprietary information, attorney/client work product, or other information protected from disclosure by law. Any use, dissemination, disclosure or reproduction of this e-mail other than by the intended recipient as authorized by the sender is strictly prohibited. If you have received this e-mail in error, please delete this e-mail and its attachments (if any) and notify the sender via a reply e-mail, or by telephone at (406) 443-6820. It is not the intention of the sender to waive any privileges, confidentiality rights, proprietary rights or other rights relative to the information contained within this e-mail or any of its attachments.

From: Janette Brimmer [<mailto:jbrimmer@earthjustice.org>]

Sent: Wednesday, October 19, 2016 10:53 AM

To: Cathy Laughner; 'Pinkston, Daniel (ENRD)'; 'Perkins, Erin'; 'Zomer, Jessica (Zomer.Jessica@epa.gov)'; 'mstermitz@crowleyfleck.com'; 'Jeff J. Oven (joven@crowleyfleck.com)'; Chad Adams; 'kmoser2@mt.gov'; 'Bond, Sarah (SBond@mt.gov)'; 'mwarhank@jmgm.com'; 'fredric.andes@btlaw.com'; 'pdrucker@btlaw.com'; 'jfortney@btlaw.com'

Cc: 'Albert F. Ettinger (ettinger.albert@gmail.com)'; Jennifer Chavez; Stephanie Tsosie; Katherine O'Brien

Subject: RE: follow up MT WQS briefing and pretrial scheduling proposals RESEND

I just want to make sure I have a clear understanding—this proposal is for each intervenor to file their own brief of the length proposed below, correct?

Janette Brimmer

Attorney

Earthjustice Northwest Office

705 2nd Avenue, Suite 203

Seattle, WA 98104

T: 206.343.7340, ext. 1029

F: 206.343.1526

earthjustice.org



The information contained in this email message may be privileged, confidential and protected from disclosure.

If you are not the intended recipient, any dissemination, distribution or copying is strictly prohibited.

If you think that you have received this email message in error, please notify the sender by reply email and

delete the message and any attachments.

From: Cathy Laughner [<mailto:cathyl@bkbh.com>]

Sent: Wednesday, October 19, 2016 9:50 AM

To: Janette Brimmer; 'Pinkston, Daniel (ENRD)'; 'Perkins, Erin'; 'Zomer, Jessica (Zomer.Jessica@epa.gov)'; 'mstermitz@crowleyfleck.com'; 'Jeff J. Oven (joven@crowleyfleck.com)'; Chad Adams; 'kmoser2@mt.gov'; 'Bond, Sarah (SBond@mt.gov)'; 'mwarhank@jmgm.com'; 'fredric.andes@btlaw.com'; 'pdrucker@btlaw.com'; 'jfortney@btlaw.com'

Cc: 'Albert F. Ettinger (ettinger.albert@gmail.com)'; Jennifer Chavez; Stephanie Tsosie; Katherine O'Brien

Subject: RE: follow up MT WQS briefing and pretrial scheduling proposals RESEND

All,

Attached & below is a proposal for your consideration. After Plaintiff files MSJ, & EPA files its opposition, intervenors file responses approximately 30 days later. Consistent with Dan

Pinkson's suggestion this avoids duplication. We also do not resolve the "joint brief" issue here as the Judge did not ask us to do so in his 9/15/2016 Order. Summary:

Intervenors' Positions on Briefing per 10/4/2016 Order	October 21, 2016	Brief Rendition
Motion to Amend Pleadings	Nov. 30, 2016	
Certification of Administrative Record	Nov. __, 2016	
Plaintiffs' Motion for Summary Judgment	December __, 2016	10,000 words
Defendants' Opposition and Cross-Motion for Summary Judgement	January __, 2017	12,000 words
Intervenors' Opposition & Cross-Motions for Summary Judgement	February __ 2017	L.R. 7.1(d)(2)
Plaintiff's Response	March __, 2017	12,000 words
Defendants' Replies	April __, 2017	5,000 words
Intervenors' Replies	April __, 2017	L.R. 7.1(d)(2)

Catherine A. Laughner, Esq.
cathyl@bkbh.com
www.bkbh.com

Browning, Kaleczyc, Berry & Hoven, P.C.
801 W. Main, Suite 2A, Bozeman, MT 59715
p. (406) 585-0888
f. (406) 587-0165

Confidentiality Notice - This e-mail and its attachments (if any) may contain privileged information, confidential information, proprietary information, attorney/client work product, or other information protected from disclosure by law. Any use, dissemination, disclosure or reproduction of this e-mail other than by the intended recipient as authorized by the sender is strictly prohibited. If you have received this e-mail in error, please delete this e-mail and its attachments (if any) and notify the sender via a reply e-mail, or by telephone at (406) 443-6820. It is not the intention of the sender to waive any privileges, confidentiality rights, proprietary rights or other rights relative to the information contained within this e-mail or any of its attachments.

From: Janette Brimmer [<mailto:jbrimmer@earthjustice.org>]

Sent: Tuesday, October 18, 2016 1:18 PM

To: 'Pinkston, Daniel (ENRD)'; 'Perkins, Erin'; 'Zomer, Jessica (Zomer.Jessica@epa.gov)'; 'mstermitz@crowleyfleck.com'; 'Jeff J. Oven (joven@crowleyfleck.com)'; Cathy Laughner; Chad Adams; 'kmoser2@mt.gov'; 'Bond, Sarah (SBond@mt.gov)'; 'mwarhank@jmgm.com'; 'fredric.andes@btlaw.com'; 'pdrucker@btlaw.com'; 'jfortney@btlaw.com'

Cc: 'Albert F. Ettinger (ettinger.albert@gmail.com)'; Jennifer Chavez; Stephanie Tsosie; Katherine O'Brien

Subject: RE: follow up MT WQS briefing and pretrial scheduling proposals RESEND

Okay, let's try and do a call tomorrow, Wednesday the 19th at 1 p.m. mountain time, noon pacific. I have one hour reserved for the call although probably we will either reach agreement or not in much less time than an hour.

866 453 5550

8347343#

Janette Brimmer

Attorney

Earthjustice Northwest Office

705 2nd Avenue, Suite 203

Seattle, WA 98104

T: 206.343.7340, ext. 1029

F: 206.343.1526

earthjustice.org



The information contained in this email message may be privileged, confidential and protected

from disclosure.

If you are not the intended recipient, any dissemination, distribution or copying is strictly prohibited.

If you think that you have received this email message in error, please notify the sender by reply email and

delete the message and any attachments.

From: Pinkston, Daniel (ENRD) [<mailto:Daniel.Pinkston@usdoj.gov>]
Sent: Tuesday, October 18, 2016 11:13 AM
To: Janette Brimmer; 'Perkins, Erin'; 'Zomer, Jessica (Zomer.Jessica@epa.gov)'; 'mstermitz@crowleyfleck.com'; 'Jeff J. Oven (joven@crowleyfleck.com)'; 'Cathy Laughner (cathyl@bkbh.com)'; 'chad@bkbh.com'; 'kmoser2@mt.gov'; 'Bond, Sarah (SBond@mt.gov)'; 'mwarhank@jmgm.com'; 'fredric.andes@btlaw.com'; 'pdrucker@btlaw.com'; 'jfortney@btlaw.com'
Cc: 'Albert F. Ettinger (ettinger.albert@gmail.com)'; Jennifer Chavez; Stephanie Tsosie; Katherine O'Brien
Subject: RE: follow up MT WQS briefing and pretrial scheduling proposals RESEND

I'm available for either time.

Daniel (Dan) Pinkston

Senior Trial Attorney

Environmental Defense Section/USDOJ

303.844.1804, daniel.pinkston@usdoj.gov

From: Janette Brimmer [<mailto:jbrimmer@earthjustice.org>]
Sent: Tuesday, October 18, 2016 12:10 PM
To: Pinkston, Daniel (ENRD) <DPinkston@ENRD.USDOJ.GOV>; 'Perkins, Erin' <Perkins.Erin@epa.gov>; 'Zomer, Jessica (Zomer.Jessica@epa.gov)' <Zomer.Jessica@epa.gov>; 'mstermitz@crowleyfleck.com' <mstermitz@crowleyfleck.com>;

'Jeff J. Oven (joven@crowleyfleck.com)' <joven@crowleyfleck.com>; 'Cathy Laughner (cathyl@bkbh.com)' <cathyl@bkbh.com>; 'chad@bkbh.com' <chad@bkbh.com>; 'kmoser2@mt.gov' <kmoser2@mt.gov>; 'Bond, Sarah (SBond@mt.gov)' <SBond@mt.gov>; 'mwarhank@jmgm.com' <mwarhank@jmgm.com>; 'fredric.andes@btlaw.com' <fredric.andes@btlaw.com>; 'pdrucker@btlaw.com' <pdrucker@btlaw.com>; 'jfortney@btlaw.com' <jfortney@btlaw.com>
Cc: 'Albert F. Ettinger (ettinger.albert@gmail.com)' <ettinger.albert@gmail.com>; Jennifer Chavez <jchavez@earthjustice.org>; Stephanie Tsosie <stsosie@earthjustice.org>; Katherine O'Brien <kobrien@earthjustice.org>
Subject: RE: follow up MT WQS briefing and pretrial scheduling proposals RESEND

Hello, I have heard back from all but DOJ and Crowley Fleck on availability for a follow-up call tomorrow. Right now the available times have shrunk a bit. If you have not yet responded, please respond with your availability from 9 and 10 mountain time, or between 11 to 2 mountain time. Thank you.

Janette Brimmer

Attorney

Earthjustice Northwest Office

705 2nd Avenue, Suite 203

Seattle, WA 98104

T: 206.343.7340, ext. 1029

F: 206.343.1526

earthjustice.org



The information contained in this email message may be privileged, confidential and protected from disclosure.

If you are not the intended recipient, any dissemination, distribution or copying is strictly prohibited.

If you think that you have received this email message in error, please notify the sender by reply email and

delete the message and any attachments.

From: Janette Brimmer

Sent: Monday, October 17, 2016 11:38 AM

To: 'Pinkston, Daniel (ENRD)'; 'Perkins, Erin'; 'Zomer, Jessica (Zomer.Jessica@epa.gov)'; 'mstermitz@crowleyfleck.com'; 'Jeff J. Oven (joven@crowleyfleck.com)'; 'Cathy Laughner (cathyl@bkbh.com)'; 'chad@bkbh.com'; 'kmoser2@mt.gov'; 'Bond, Sarah (SBond@mt.gov)'; 'mwarhank@jmgm.com'; 'fredric.andes@btlaw.com'; 'pdrucker@btlaw.com'; 'jfortney@btlaw.com'

Cc: 'Albert F. Ettinger (ettinger.albert@gmail.com)'; Jennifer Chavez; Stephanie Tsosie; Katherine O'Brien

Subject: RE: follow up MT WQS briefing and pretrial scheduling proposals RESEND

Please note that I am resending the email as there was a typo in Mr. Andes' email address. Therefore, PLEASE RESPOND TO THIS VERSION in order to ensure Mr. Andes receives the responses.

Janette Brimmer

Attorney

Earthjustice Northwest Office

705 2nd Avenue, Suite 203

Seattle, WA 98104

T: 206.343.7340, ext. 1029

F: 206.343.1526

earthjustice.org



The information contained in this email message may be privileged, confidential and protected from disclosure.

If you are not the intended recipient, any dissemination, distribution or copying is strictly prohibited.

If you think that you have received this email message in error, please notify the sender by reply email and

delete the message and any attachments.

From: Janette Brimmer

Sent: Monday, October 17, 2016 10:55 AM

To: 'Pinkston, Daniel (ENRD)'; Perkins, Erin; Zomer, Jessica (Zomer.Jessica@epa.gov); mstermitz@crowleyfleck.com; Jeff J. Oven (joven@crowleyfleck.com); Cathy Laughner (cathyl@bkbh.com); chad@bkbh.com; kmoser2@mt.gov; Bond, Sarah (SBond@mt.gov); 'mwarhank@jmgm.com'; 'fredricandes@btlaw.com'; 'pdrucker@btlaw.com'; 'jfortney@btlaw.com'

Cc: Albert F. Ettinger (ettinger.albert@gmail.com); Jennifer Chavez; Stephanie Tsosie; Katherine O'Brien

Subject: follow up MT WQS briefing and pretrial scheduling proposals

Counsel, this is the follow up to our conference call this morning. As discussed, below is the proposed amended schedule with word limits, that has been agreed to by EPA and the plaintiffs. This is substantially similar to the proposal made early this morning by EPA with some small adjustment in timing and some changes in intervenors briefs. EPA's proposal had a total number of words for plaintiff of 22,000 and a total for defendants and defendant intervenors of 39,000 which is far too lopsided, given plaintiff has the burden. The agreed proposal below still has 11,000 (or 12,000) more words for the defense side of the equation than for plaintiff but is somewhat more even.

Given that the court has moved the pretrial conference up to October 31, we assume, given the court's earlier statements in the status conference, that we must now get our proposals to the court NO LATER than Monday October 24, and probably preferably this Friday. Therefore, it seems prudent to try and have a call on Wednesday the 19th. I am available to host a call any time between 8 a.m. and 3 p.m. pacific time. Please let me know availability for that call as soon as possible and I will send around a number.

Here is the proposed briefing under consideration. As noted in the call, if the intervenors will be insisting on separate briefs, we will have to ask the judge to set the schedule after deciding that issue and file separate proposals with the court. Our position is EPA gets a brief, the State gets a brief and all the rest of the intervenors, as permittees/regulating party representatives, are consolidated on a third brief.

Plaintiff's opening brief 12,000 words filed 10 days to 2 weeks after December 2—the date by which EPA believes it can certify the record.

EPA cross motion/response 60 days later 12,000 words

MT cross motion/response 80 days (20 after EPA) 8,000 words

All other intervenors (League, Treasure State, NACWA) on consolidated cross/resp 80 days (same time as state) 5,000 words

Plaintiff reply/response 30 days after last intervenor brief (50 days after EPA brief) 15,000 words

EPA final reply 30 days after our response 7,000 words

MT and others final reply same time as EPA, 3,000 words for Montana and 3,000 for consolidated intervenors

That makes for a total of plaintiff 27,000 words (as opposed to the 22,000 proposed by EPA)

Total defense side 38,000 (as opposed to 39,000 proposed by EPA).

Finally, as also noted in the call, Plaintiff would be willing to agree to 4,000 words final reply for the State of Montana but only if there is consolidated briefing by the intervenors as proposed. That would, of course, make the totals 27,000 for plaintiff and 39,000 for defense

which frankly, is generous.

Looking forward to working the details out on Wednesday if possible. Let me know if there are questions. Thank you.

Janette Brimmer

Attorney

Earthjustice Northwest Office

705 2nd Avenue, Suite 203

Seattle, WA 98104

T: 206.343.7340, ext. 1029

F: 206.343.1526

earthjustice.org



The information contained in this email message may be privileged, confidential and protected from disclosure.

If you are not the intended recipient, any dissemination, distribution or copying is strictly prohibited.

If you think that you have received this email message in error, please notify the sender by reply email and

delete the message and any attachments.

